

ENVIRONMENTAL PROTECTION COMMISSION
REGULAR MEETING/PUBLIC HEARING
MINUTES
November 15, 2006

Wednesday, November 15, 2006

Town Hall

6:45 p.m.
Executive Session
Room B3

Chairman Hillman called the meeting to order at 6:45 p.m. Members present: Peter Hillman, Pete Kenyon, Susan Cameron, Craig Flaherty, Ellen Kirby, and Ned Lewis.

Staff Present: Richard Jacobson

Town Counsel: Attorney Ira Bloom

Ms. Cameron made a motion to go into an executive session to discuss pending litigation. Mr. Kenyon seconded the motion and it passed unanimously. There were no votes taken. Ms. Cameron made a motion to close the executive session. Mr. Kenyon seconded the motion and it passed unanimously. The executive session closed at 7:20.

7:30 p.m.
General Meeting
Auditorium

Chairman Hillman called the meeting to order at 7:30 P.M. Commission Members Present: Peter Hillman Reese Hutchison, Susan Cameron, Craig Flaherty, Ellen Kirby, Ned Lewis and Pete Kenyon.

Staff Present: Richard Jacobson

Court Reporter: Bonnie Syat

Chairman Hillman read the first agenda item:

EPC-42-2006 Christopher and Margaret Stefanoni, 77 Nearwater Lane, proposing to construct an age restricted housing development and requesting a reconsideration of the extreme high water elevation and designation of the regulated inland wetlands.

Ms. Cameron was recused for this application.

Mr. Hillman said that the draft Notice of Decision and Findings regarding the Notices of Intervention had been circulated to the members and reviewed by the Town Attorney.

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There were no changes to the draft proposed. Mr. Hillman made a motion to approve the application with the findings and conditions of the "Decision of the Darien Environmental Protection Commission Regarding EPC Application No. 42-2006 Christopher and Margaret Stefanoni 77 Nearwater Lane" Mr. Kenyon seconded the motion. The motion passed 4-1. Mr. Lewis was opposed.

Mr. Hillman read the next agenda item:

EPC-78-2006, Eleanor Palmer, 14 Woodland Drive, proposing additions and alterations to an existing house and a revision to the wetland map to reflect no construction within the upland review area.

Jacek Bigosinski, Architect, represented the applicant. He said a tree fell on the Palmer residence causing extensive damage. He said they decided to add on to the house in addition to the repairs. Mr. Hillman asked him if the soil scientist's report showed the mapped wetlands to be off the site. Mr. Bigosinski said yes. Mr. Hillman made a motion to approve the application. Mr. Kenyon seconded the motion and it was approved unanimously.

Mr. Hillman read the next agenda item:

EPC-69-2006 Stephanie and Peter Ahl, 20 Arrowhead Way, proposing to construct a second floor addition within the upland review area..

Mrs. Ahl represented herself. She said they are proposing to expand the second floor. Ms. Cameron reminded them of the need to pump the septic tank regularly. Mr. Flaherty asked about the access to the work area and requested a silt fence around the access. Ms. Cameron made a motion to approve the application. Mr. Flaherty seconded the motion and it passed unanimously.

Mr. Hillman read the next agenda item:

EPC-59-2006, Christian & Kathleen Browning, 17 Greenwood Avenue, proposing replacement of an existing residence and related construction within an upland review area.

Mr. Hillman and Mr. Lewis said they had listened to the tape of the previous hearing.

The Commission reviewed the draft resolution and there were no changes. Ms. Cameron made a motion to approve the application with stipulations. Mr. Lewis seconded the motion and it passed unanimously.

EPC-72-2006 Bart Ice, 10 Pondfield Lane, proposing repair and replacement of stone walls along an edge.

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Mr. Ice represented himself. Mr. Hillman asked him how the trees along the pond held up during the Labor Day storm. Mr. Ice said the trees held up well. Ms. Cameron asked if there are areas along the pond with no wall. Mr. Ice said most of the pond on the opposite side does not have a wall. Mr. Ice said all of the work is proposed to be done by hand. Mr. Kenyon made a motion to approve the application. Mr. Flaherty seconded the motion and it passed unanimously.

Mr. Hillman announced the withdrawal of the following application:

EPC-67-2006, Whole Foods Market, 150-152 Ledge Road, proposing regrading, parking lot construction, drainage, and landscaping associated with the construction of a commercial development within the upland review area.

Mr. Hillman read the next hearing item:

EPC-76-2006 Mark Raskopf, 60 Andrews Drive, proposing to construct a retaining wall and place fill within the upland review area.

Mr. Raskopf represented himself. The Commission requested an arborist's report and tape to be place around the trees to be removed. Mr. Raskopf said he is preparing a planting plan. The Commission continued this item to December 1, 2006.

Minutes of July 5, 2006

Ms. Cameron made a motion to approve the minutes. Mr. Kenyon seconded the motion and it passed 5-0. Mr. Hillman abstained.

Minutes of August 2, 2006

Mr. Hillman made a motion to approve the minutes. Mr. Lewis seconded the motion and it passed unanimously.

Minutes of August 24, 2006

Mr. Hillman made a motion to approve the minutes. Ms. Cameron seconded the motion and it passed 5-0. Mr. Lewis abstained.

Mr. Hillman read the public hearing item:

Proposed amendments to the "Inland Wetlands and Watercourses Regulations" of Town of Darien. The amendment to section 2.1.y will add Tokeneke Brook and Stony Brook to the "named watercourses" under the definition of regulated activities which will increase the upland review areas associated with these watercourses. The second amendment corrects a typographic error in the "as-of-right" definition.

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Mr. Kenyon and Mr. Hillman stated they listened to the tapes of the previous hearing.

Mr. Hillman opened the hearing to public comment.

Mr. Martin Ross of 15 Old Parish Road said he is a 13 year resident of Darien. He asked what is the ultimate purpose of the change and if any scientific or economic studies have been done. He asked if the Commission had considered work done upstream at the high school and Wee Burn Country Club.

Mr. Hillman said there were no formal studies. The changes are part of the on-going review of the regulations. The Commission has experience with applications increasing development along Stony Brook and Tokeneke Brook. Mr. Hillman said the Commission is not in the business of penalizing applicants. Many projects have been within the upland review areas of named watercourses. He said the changes give the Commission the opportunity to review more projects. He said the wetland process is more flexible than zoning.

Ms. Cameron said it is not a taking to regulate an additional 50 feet and review stormwater management, plantings and erosion controls.

Kimberly Osgood of 100 Hanson Road asked the Commission to do a study that compares these watercourses with other watercourses.

Barry Grandon asked what the rational basis was for the changes. He asked how the Commission could compare the Noroton River with Stony Brook. He said moving the setback may not be addressing the issue of the impact on the watercourses. Ms. Cameron said studies prove that increase in impervious surfaces impact water quality. Mr. Flaherty said the Commission is a body of limited authority. The EPC hears concerns with runoff. This addresses just a piece of the problem but it is all the Commission can do.

Richard Windels said there is a Fuss and O'Neil study on watersheds in Town. He said the studies recommend 100 foot setbacks. He said that impervious coverage of more than 28.5% creates urban stormwater problems. He said developers created the problems and additional oversight is required.

John van der Kieft of 75 Hanson Road said he is concerned with the high school field. Mr. Hillman said the Stony Brook changes were being considered before the high school field was proposed. Mr. Hillman said the proposed changes would help stop over development. Ms. Cameron said it speaks to the fairness of the Commission that Mr. van der Kieft's project on Hanson Road was approved within wetland setbacks.

Attorney Timothy Butler representing Mr. Foley on Old Parish Road said that no one disputes the Commission's good work. He said the people being affected were not notified other than the newspaper notice. He said some peoples will have the line of jurisdiction through their homes. The proposed changes will cost them money and time

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and will have a financial impact. He said the issue of development is not in the EPC jurisdiction. Mr. Hillman asked if he had ever appeared before the Commission. Mr. Butler said no. Mr. Hillman said that when the wetland legislation was adopted by the Town as required by the DEP there were no specific studies required. He said the decisions of the Commission are site specific.

Chris Roland of 136 West Avenue said he applauds the Commission. He had concerns about the increase from 50 -100 feet. He said water over the past two years has increased. He said the problems may relate to Darien High School and Wee Burn Country Club. Mr. Flaherty said there has been a 24 inch surplus of rainfall over the past 13 months. If there were no wetland regulation the problem would be considerably worse.

Jane Wolcott, 14 Linda Lane asked where the 100 feet would start. Mr. Hillman said from the edge of the brook.

The Commission continued the hearing to December 6, 2006.

Ms. Kirby made a motion to adjourn. The motion was seconded by Mr. Flaherty and passed unanimously. The meeting adjourned at 9:50 p.m.

Respectfully submitted,

Richard B. Jacobson
Environmental Protection Officer